

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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J W SKUPNIEWITZ
CLERK US DIST COURT
WD OF WI

JAMES FLAD,
202 South High Point Road
Madison, WI 53717,

Plaintiff,

v.

03 C 0158 C

Case No.: _____

ADAM WILLIAMS,
an individual doing business on-line at:
www.superlaugh.com, www.sillyfun.com, and
www.goofyfun.com,
P.O. Box 64
Tacoma, WA 98433

SCOTT CASAR,
an individual doing business on-line at:
www.funnyforwards.com,
P.O. Box 1647
Thousand Oaks, CA 91358

SUZANNE COOPER, INC. and SUZANNE
COOPER,
a corporation and an individual doing business on-
line at:
www.suzannecooper.com,
P.O. Box 445
Spring Branch, TX 78070

THE DAYTON NETWORK ACCESS CO.,
a corporation doing business on-line at:
www.dnaco.net,
P.O. Box 31280
Dayton, OH 45437

WWW.FUNLOL.COM,
an entity doing business on-line at:
www.funlol.com,
96 Thunder Avenue
Christchurch Gh 91937
New Zealand

WAYNE STAFFORD,
an individual doing business on-line at:
www.lottoshack.com,
P.O. Box 143
Hardin, KY 42048

FUNNYJUNK, INC.,
a corporation doing business on-line at:
www.funnyjunk.com
552 Highland Rd., Apt 23
Baton Rouge, LA 70726

**WWW.PASSAPAGE.COM and LEIGH
DASILVA,**
an entity and an individual doing business on-line
at: www.passapage.com,
5484 6th Avenue
Delta, BC V4M1L8
Canada

MRS. O'POODLES & COMPANY,
an entity doing business on-line at:
www.mrsopoodlesandco.com,
261 Ewe Creek Road
Grants Pass, OR 97526

TX COMMUNICATIONS PTY. LTD.,
a corporation doing business on-line at:
www.txc.net.au,
43 Greenhill Road
Wayville, South Australia 5034
Australia

MILLAN MEDIA,
an entity doing business on-line at:
www.millan.net,
840 Van Ness Avenue #504
San Francisco, CA 94109

Defendants.

COMPLAINT

COMES NOW plaintiff JAMES FLAD ("Flad"), by his attorneys Joseph A. Ranney and Joseph T. Leone, and as and for a complaint against defendants SCOTT CASAR, SUZANNE COOPER, INC., SUZANNE COOPER, THE DAYTON NETWORK ACCESS CO., WWW.FUNLOL.COM, WAYNE STAFFORD, ADAM WILLIAMS, WWW.PASSAPAGE.COM, LEIGH DASILVA, MRS. O'POODLES & COMPANY, TX COMMUNICATIONS PTY. LTD., and MILLAN MEDIA, (collectively "Defendants") alleges and states as follows:

1. Plaintiff Flad is an adult who resides at 202 South High Point Road, Madison, Wisconsin.
2. ADAM WILLIAMS ("Williams") is an individual doing business on-line at www.superlaugh.com, www.sillyfun.com, and www.goofyfun.com, whose registrar-listed contact address is P.O. Box 64 Tacoma, WA 98433, and whose physical address is believed to be 7102 East "T" Street, Tacoma, WA 98404-4237. Williams is in the business of operating Internet newsletters at the web addresses www.superlaugh.com, www.sillyfun.com, and www.goofyfun.com.
3. Defendant SCOTT CASAR ("Casar") is an individual doing business on-line at www.funnyforwards.com, and whose registrar-listed contact address is P.O. Box 1647 Thousand Oaks, CA 91358. Cassar is engaged in the business of operating an Internet newsletter at the web address www.funnyforwards.com.

4. Defendants SUZANNE COOPER, INC. and SUZANNE COOPER ("Cooper") are a corporation and an eponymous individual doing business on-line at www.suzannecooper.com, whose registrar-listed contact address is P.O. Box 445, Spring Branch, TX 78070, and whose physical address is believed to be 5005 Kenilworth Blvd, Spring Branch, Texas, 78070. These two defendants are engaged in the business of operating an Internet newsletter at the web address www.suzannecooper.com.

5. Defendant THE DAYTON NETWORK ACCESS CO. ("Dayton") is a corporation doing business on-line at www.dnaco.net, and whose registrar-listed contact address is P.O. Box 31280, Dayton, OH 45437. On information and belief, Dayton is synonymous with, a predecessor of, or a wholly owned subsidiary of SISCOM Inc., 130 W. Second St., Suite 1100, Dayton, OH 45402. On information and belief, Dayton is engaged in the business of operating an Internet Service Provider company at the web address www.dnaco.net, which when entered into a web browser is redirected to www.siscom.net.

6. Defendant WWW.FUNLOL.COM ("FunLol") is an entity of unknown legal structure doing business on-line at www.funlol.com, and having a registrar-listed contact address of 96 Thunder Avenue, Christchurch Gh 91937, New Zealand. FunLol is engaged in the business of operating an Internet newsletter at the web address www.funlol.com.

7. Defendant WAYNE STAFFORD ("Stafford") is an individual doing business on-line at www.lottoshack.com, having a registrar-listed contact address of

P.O. Box 143, Hardin, KY 42048, and whose physical address is believed to be 345 Commerce Street, Herndon, KY 42236. Stafford is engaged in the business of operating an Internet newsletter at the web address www.lottoshack.com.

8. Defendant FUNNYJUNK, INC. ("FunnyJunk"), is a corporation doing business on-line at www.funnyjunk.com, and whose registrar-listed contact address is 552 Highland Rd., Apt 23, Baton Rouge, LA 70726. FunnyJunk is in the business of running an Internet newsletter at the web address www.funnyjunk.com.

9. Defendants WWW.PASSAPAGE.COM ("PassAPage") and LEIGH DASILVA ("DaSilva"), are a corporation and an individual, respectively, doing business on-line at www.passapage.com, and having a registrar-listed contact address of 5484 6th Avenue, Delta, BC V4M1L8, Canada. PassAPage and DaSilva are in the business of operating an Internet newsletter at the web address www.passapage.com.

10. Defendant MRS. O'POODLES & COMPANY ("O'Poodles") is an entity doing business on-line at www.mrsopoodlesandco.com, and having a registrar-listed address of 261 Ewe Creek Road, Grants Pass, OR 97526. O'Poodles is in the business of operating an Internet newsletter at the web address www.mrsopoodlesandco.com.

11. Defendant TX COMMUNICATIONS PTY. LTD. ("TX") is a corporation doing business on-line at www.txc.net.au, and having a listed contact address of 43 Greenhill Road, Wayville, South Australia 5034, Australia. TX is in the business of telecommunications and operates an Internet site for that purpose at www.txc.net.au.

12. Defendant MILLAN MEDIA ("Millan") is an entity of unknown legal structure, doing business on-line at www.millan.net, and having a registrar-listed contact address of 840 Van Ness Avenue #504, San Francisco, CA 94109. Millan is in the business of operating an Internet newsletter at the web address www.millan.net.

Nature of Action, Jurisdiction and Venue

13. This is a civil action for damages, declaratory judgment and injunctive relief with respect to Flad's rights in a copyrighted photograph entitled "Bert's Bath" ("Photograph").

14. The claim with respect to the Photograph arises under the copyright laws of the United States, Title 17, United States Code. The Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1338(a).

15. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) in that Flad resides in this district and has a regular and established place of business within this district and a substantial part of the events and omissions giving rise to the claims which are the subject of this action occurred within this district.

Cause of Action Common to All Defendants – Copyright Infringement

16. Plaintiff realleges paragraphs 1-15 above, which are incorporated by reference.

17. Flad is the creator and author of the Photograph. On August 22, 1990, Flad submitted an application for a U.S. Copyright Registration on the Photograph.

On August 27, 1990, Flad was granted a U.S. Certificate of Copyright Registration to the Photograph by the United States Copyright Office, Registration No. VA 420 005. A copy of the Registration is attached hereto as **Exhibit 1** and incorporated by reference.

18. The Defendants have used the Photograph on multiple occasions without obtaining permission from Flad to do so. Such occasions include, without limitation, unauthorized copying and use of the image on the Internet sites listed in paragraphs 1-12, *supra*. As evidence of such unauthorized, infringing use, see **Exhibits 2-14**, attached hereto and incorporated herein.

19. By the actions described in paragraph 18 above, the Defendants have infringed and are continuing to infringe Flad's copyright in the Photograph within the meaning of 17 USC § 501 by making and disseminating unauthorized copies of the Photograph, by publishing advertising materials which incorporate part or all of the Photograph, and by selling merchandise which incorporates part or all of the Photograph. The Defendants' infringing acts have damaged Flad in various respects, including without limitation loss of business, revenues and goodwill.

20. On information and belief, the Defendants have knowingly and willfully infringed Flad's copyright in the Photograph within the meaning of 17 USC § 501 and have used the Photograph as described in paragraph 18 even though they knew or recklessly ignored the fact that they were not authorized to do so.

21. On information and belief, if the Defendants continue to infringe Flad's copyright in the Photograph, Flad will be irreparably harmed and will be harmed in a manner such that he cannot be fully compensated by an award of damages.

WHEREFORE, plaintiff Flad demands the following:

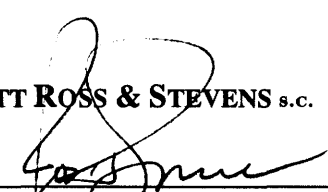
- A. Judgment in his favor and against all Defendants, and each of them, for actual or statutory damages under 17 USC §§504 (b) or (c), respectively, and increased damages for willful infringement under 17 USC §504(c), all in an amount to be determined at trial of this action.
- B. Judgment enjoining the Defendants from making any use of the Photograph without Flad's permission.
- C. Judgment for full costs and actual reasonable attorneys fees as provided for 17 U.S.C. §505.
- D. For such other relief as the Court shall deem just and equitable.

**PLAINTIFF DEMANDS TRIAL BY A JURY OF 12 PERSONS
OF ALL ISSUES TRIABLE IN THIS LAWSUIT.**

Dated: April 2, 2003.

DEWITT ROSS & STEVENS s.c.

By: _____


Joseph A. Ranney (#1005007)
Joseph T. Leone (#1018149)
Two East Mifflin Street, Suite 600
Madison, WI 53703-2865
608-255-8891
Attorneys for Plaintiff

April 2, 2003